IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION, JOPLIN

TOMMY L. LAUDERDALE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**Case No. 09-5073-CV-S-SWH**
	)	
MODINE MANUFACTURING COMPANY	)	**Jury Trial Demand**
	)	
Defendant.	)	

COMPLAINT

COMES NOW Tommy L. Lauderdale, by and through her attorney Michael Smalley and for his cause of action against Defendant Modine Manufacturing Company, alleges as follows:

JURISDICTION

1. This court has jurisdiction under Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq., and through pendent jurisdiction Missouri Revised Statutes Chapter 213 et seq.
2. The matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs.
3. On or about February 4, 2009, Plaintiff filed charge # 563-2009-00751 with the Equal Employment Opportunity Commission ("EEOC"), against defendant alleging discrimination based on the Americans with Disabilities Act.

4. On or about February 4, 2009, Plaintiff also filed charge #FE-2/09-09607 with the Missouri Commission on Human Rights ("MCHR"), against Defendant alleging discrimination based on the Americans with Disabilities Act.

5. On May 27, 2009 EEOC issued Plaintiff a Dismissal and Notice of Rights determination on his charge of discrimination based on the Americans with Disabilities Act.

PARTIES

6. Plaintiff is an individual male, residing in Neosho, Newton County, Missouri. He worked for Defendant from March 21, 2005 until January 6, 2009, when he was terminated.

7. Defendant was at all times material to these claims doing substantial business in Joplin, Jasper County, Missouri. Defendant's corporate office is located at 1500 Dekoven Avenue, Racine, Wisconsin, 53403. Defendant may be served with process to C T Corporation System, 120 South Central Avenue, Clayton, Missouri, 63105

8. At all times relevant to Plaintiffs' claims, Defendant employed 15 or more individuals.

FACTUAL ALLEGATIONS

DISCRIMINATION BASED ON TOMMY L. LAUDERDALE'S DISABILITY

9. On March 21, 2005, Plaintiff Tommy L. Lauderdale was hired to work at Modine Manufacturing Company, located at 3300 West 7th Street, Joplin, Missouri.

10. Plaintiff worked on a production line.

11. Plaintiff was diagnosed with throat cancer and underwent surgery on his throat on February 12, 2008, June 5, 2008 and October 24, 2008 prior to his termination, and again on March 30, 2009 after his termination.

12. Plaintiff also underwent knee replacement surgery April 28, 2009, after his termination.

13. That prior to his termination, Plaintiff missed approximately 6 months of work due to the surgeries, and Plaintiff had informed his supervisors that he required additional surgeries.

14. That on or about November 10, 2008, Plaintiff had just returned to work from the October 24, 2008 surgery, and was working on a packing line waiting for parts to come down the line for Plaintiff to perform his assigned task of packing the parts.

15. That Neil O'Connor was the supervisor on said packing line and he wrote Plaintiff up claiming that Plaintiff wasn't doing any work on the line and sent Plaintiff home from work.

16. That on or about November 12, 2008, supervisor Neil O'Connor again wrote Plaintiff up claiming that Plaintiff was not keeping his assigned area clean.

17. That on or about January 4, 2009, supervisor Randy Storm sent Plaintiff home from work without explanation and told Plaintiff to report back to work at 9:00 a.m. the next day.

18. That on or about January 5, 2009 when Plaintiff returned to work, he was met by two supervisors, Dave Brabit and Jim Lawler who questioned Plaintiff about a preventive maintenance check he was assigned to complete, and informed

Plaintiff that he had not completed the preventive maintenance check correctly. Plaintiff was then sent home and told to report back to work at his assigned time that night.

19. Prior to Plaintiff reporting back to work later that night, he received a phone call from a supervisor telling him not to come to work that night, instead report to work at 9:00 a.m. on January 6, 2009.

20. When Plaintiff returned to work on January 6, 2009, he was met by supervisors Randy Storm and Dave Brabit, who escorted him to an office and terminated his employment.

21. That prior to Plaintiff's surgeries, there were no complaints about his work production, and that after three surgeries and 6 months of missed work due to the surgeries, Plaintiff was terminated under the pretext of not following proper cleaning procedures and falsifying company documents regarding the cleaning procedures.

DAMAGES

Plaintiff Tommy L. Lauderdale has sustained significant emotional, psychological and physical trauma as a direct result of the Defendant's actions. He also has suffered economic losses in the form of lost back wages, lost benefits, front wages and any other available legal damages.

WHEREFORE, Plaintiff Tommy L. Lauderdale requests judgment against Defendant in an amount exceeding $75,000 in compensatory damages, in addition to attorney fees, expert witness fees, court costs and other such relief as the court deems equitable.

REQUEST FOR JURY TRIAL AND DESIGNATION OF PLACE OF TRIAL

Plaintiffs request a Trial by Jury and designate Springfield, Missouri, as the place of trial.

SMALLEY & ASSOCIATES, LLC

/s/Michael Smalley_______________

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